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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,826	04/18/2001	David Morrow	WLI 1012 PUS	9648

7590

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EXAMINER

CHAMBERS, MICHAEL S

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/837,826	Applicant(s) MORROW ET AL.	
	Examiner Mike Chambers	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 14-20, 26-33 and 36 is/are rejected.
- 7) ☒ Claim(s) 11-13, 21-25, 34 and 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2.5</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-7, 16-20, and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Brine (4657260). Brine discloses a lacrosse head with a plurality of net attachment means and at least one flange extending generally outwardly away from said open area (fig 7, item 142a). Regarding the claimed feature of a flange, in as much structure set forth by the applicant in the claims, the flange of Brine is capable of deflecting the ball in the intended manner (See MPEP 2112).

As to claim 4 : Brine discloses a unitary structure (fig 7).

As to claim 5 : Brine discloses a second flange (fig 7, item 142).

As to claim 6 : Brine discloses a flange with a longitudinal edge on an outer periphery that diverges with respect to a centerline (fig 7, 142,142a).

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As to claim 7 : Brine discloses a rectangular periphery (fig 3, item 42).

As to claim 14: Brine discloses a recess for receipt of a user's finger (150, fig 8).

As to claim 16: Brine discloses an injection molding process (2:4-9).

As to claim 17: Brine discloses a nylon material (2:50-52).

As to claim 18: See claim 1 rejection.

As to claim 19: See claim 5 rejection.

As to claim 20: See claim 6 rejection.

As to claim 26: Brine discloses a recess for receipt of a user's finger (150, fig 8).

As to claim 27: See claim 1 rejection. A lacrosse ball would impact the top of the extending portion.

As to claims 28 and 29: Brine discloses an outward portion attached to an upper portion of each sidewall (fig 7,9).

Also,

Claims 1-5, 7-10, 14,15, 17-19, and 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor et al (5035434). Taylor et al discloses a lacrosse head with a plurality of net attachment means and at least one flange extending generally outwardly away from said open area (fig 2 , item 2).

As to claims 2 and 3 : Taylor et al discloses a flange attached adjacent to an upper edge (fig 2, item 2).

As to claim 4 : Taylor et al discloses a unitary structure (fig 2).

As to claim 5 : Taylor et al discloses a second flange (fig 2).

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As to claim 7 : Taylor et al discloses a rectangular periphery (fig 2, item 34, the top is rectangular.).

As to claims 8-10: Taylor et al discloses a plurality of integrally formed slots and ribs (fig 3).

As to claim 14: Taylor et al discloses a recess for receipt of a user's finger (Fig 1, The recess area adjacent the socket can be considered a recess for a finger).

As to claim 15 : Taylor et al discloses an integrally connected upper and lower portion with a ridge (fig 3).

As to claim 17: Taylor et al discloses a nylon material (2:41-44).

As to claim 18: See claim 1 rejection.

As to claim 19: See claim 5 rejection.

As to claim 26: See claim 14 rejection.

As to claim 27: See claim 1 rejection. A lacrosse ball would impact the top of the extending portion.

As to claims 28 and 29: Taylor et al discloses an outward portion attached to an upper portion of each sidewall (fig 2,3, ridge above item 8).

Also,

Claims 1-5, 8-10, 14,15, 17-19, 26,27, and 29-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Eden et al (6283879). Eden et al discloses a lacrosse head with a plurality of net attachment means and at least one flange extending generally outwardly away from said open area (fig 6, item 62).

As to claims 2 and 3 : Eden et al discloses a flange attached adjacent to an upper edge (fig 6, item 62).

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As to claim 4 : Eden et al discloses a unitary structure (fig 6).

As to claim 5 : Eden et al discloses a second flange (fig 5, un-numbered flange extension on right sidewall).

As to claims 8-10: Eden et al discloses a plurality of integrally formed slots and ribs (fig 5, 6- un-numbered slots and ribs).

As to claim 14: Eden et al discloses a recess for receipt of a user's finger (Fig 6, The recess area adjacent the socket can be considered a recess for a finger).

As to claim 15 : Eden et al discloses an integrally connected upper and lower portion with a ridge (fig 5).

As to claim 17: Eden et al discloses a plastic material (3:32-34).

As to claim 18: See claim 1 rejection.

As to claim 19: See claim 5 rejection.

As to claim 26: See claim 14 rejection.

As to claim 27: See claim 1 rejection. A lacrosse ball would impact the top of the extending portion.

As to claim 29: Eden et al discloses an outward portion attached to an upper portion of each sidewall (fig 5, item 62).

As to claim 30: Eden et al discloses a raised edge (fig 5, item 60,62).

As to claim 31: Eden et al discloses a planar portion (fig 5, item 60).

As to claim 32: Eden et al discloses a curved portion (fig 6, item 62).

As to claim 33: Eden et al discloses a raised portion (fig 6, item 62).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eden et al. Eden et al discloses the elements of claim 1, however it fails to disclose the use of a second outwardly extending flange. It would have been obvious to one of ordinary skill in the art at the time of the invention to have included a second flange in order to increase the catching area of the head and permit the head to be used by right and left handed players.

Allowable Subject Matter

Claims 11-13, 21-25, 34, and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 703-306-5516. The examiner can normally be reached on Mon-Fri 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

6283879*50535434*4657260*

July 16, 2004


GREGORY VIDOVIH
SUPERVISORY PATENT EXAMINER
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